

TPM-SBTC
Briefing Paper for OMB Meeting
June 18, 2014

Our Request:

1. That OMB approve the SBA's proposed draft rulemaking and require the Forest Service to conform to the SBA's rulemaking to include all the four types of Stewardship Contract types in the rulemaking.
2. That OMB direct the Forest Service to immediately begin to offer any FARs based Service contracts as a small business Set-aside if they know there are at least two small businesses that are capable of performing the contract.

History

- Small Forest Product companies helped to develop and have supported Stewardship Contracting with the National Forest System beginning in 1992 when they convinced the House and Senate Interior Appropriations Committee to test Best Value Contracting in Forest Service Regions Three and Four. Kiabab Forest Industries and the National Forest Products Association advocated that concept and language.
- In 1993 and 1994 Regional Forester Dale Bosworth (later Chief Bosworth) asked the forest products industry in Region One to support a 6 to 8 project pilot program. The small forest product companies did while the large business interests in the west opposed the test. Congress approved the pilot program in the Interior Appropriations bill.
- The small forest product companies were assured by Regional Forester Bosworth and again by his replacement Gail Kimble (later Chief Kimble) that an SBA Set-aside program would be added after the pilot projects were completed if the experiment was a success.
- At the request of the Forest Service and small forest product companies Congress authorized a ten-year extension of the program in 2003 and Chief Kimble published a draft rule making in 2006 to count stewardship volume from IRTC contracts in the SBA set-aside program. The GW Bush Administration at the request of the large forest business product companies quietly shelved that rule making.

- From 2004 until 2013 the use of stewardship contracts grew from 5% of all timber volume transacted by the Forest Service to about 32%.
- In 2013 the Forest Service committed to the SBA office of advocacy that they would publish an SBA/Stewardship Rulemaking that calendar year. Which was never published.
- In 2014 Secretary Vilsack committed to then Senator Max Baucus and other Congressmen and Senators that if they would permanently re-authorize the Stewardship authority he would publish the rulemaking.
- Simultaneously the SBA, have grown tired of waiting began work on a CFR rulemaking, developed their own rulemaking which they tell us has been transmitted to OMB for review. That proposed draft rulemaking addresses all of the four types of stewardship contracts.
- The Forest Service informed our members in a meeting Monday that they had transmitted a Handbook proposed draft rulemaking to OMB for review. But they continue to insist that only IRTC contracts be counted in the SBA Set-Aside Program.

Rule of Two discussion:

In November of 2013 the US Federal District Court of Washington DC ruled that all procurement contracts be offered to small business in a set-aside program if the agency knows there are more than two qualified small businesses interested in the Service Contract.

Both the SBA and the Department of Interiors believe they have to adhere to that court ruling. Thus, the BLM in Oregon where they offer Stewardship Contracts requires all of those contracts be offered as set-aside offerings and the SBA included all four types of Stewardship Contracts in the proposed draft rulemaking they sent to you in the last two weeks.

The Forest Service continues to ignore that court direction, although they have indicated they have asked their OGC for an opinion on that court ruling.

As the arm of government tasked with attempting to ensure the various agencies implement the law and relevant court orders in a uniform and proper manner we hope that OMB will direct the Forest Service to behave as all the other agencies offering Service based contracts do.